

notwithstanding any other provision of law. The Act of August 10, 1993, specifically states that the maintenance fee provision shall not apply to any oil shale claims for which a fee is required to be paid under Section 2511(e)(2) of the Energy Policy Act of 1992. The \$550 fee requirement for oil shale claims remains in effect. The \$550 fee is first payable on or before December 31, 1993, and on or before each December 31st thereafter.

(g) The Stockraising Homestead Act of December 29, 1916 (SRHA) (43 U.S.C. 299), as amended by the Act of April 16, 1993 (107 Stat. 60), provides that no person other than the surface owner may locate a mining claim on SRHA lands after October 13, 1993, until a notice of intent to locate has been filed with the proper BLM State Office and the surface owner is notified of the filing.

(1)(i) When a notice of intent to locate a mining claim has been properly filed by a mining claimant, no other person may, until 90 days after the date the notice of intent is filed:

(A) File such a notice with respect to any portions of the lands covered by the first notice;

(B) Explore for minerals or locate a mining claim on any portion of such lands; or

(C) File an application to acquire any interest in any portion of such lands pursuant to Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(ii) The 90-day exclusive right may be extended by filing a Plan of Operations pursuant to subpart 3809 of this title. The extension runs until the BLM has approved or denied the Plan of Operations.

(2) The mining claimant may not locate mining claims on the lands encompassed by a notice under the Act of April 16, 1993, until at least 30 days after he or she has properly notified the surface owner by registered or certified mail, return receipt requested.

(3) The Act of April 16, 1993, contains numerous other requirements prerequisite to a claimant engaging in mineral exploration and development activities on SRHA lands. These requirements are administered pursuant to subpart 3814 of this title.

(h) The Soldiers' and Sailors' Relief Act of 1940 (50 U.S.C. appendix 565) excuses performance of assessment work by military personnel while they are on active duty, or within 6 months of their release from active duty, or during or within 6 months after their release from any period of hospitalization due to military injuries. The procedures for obtaining a waiver from the performance of assessment work may be found in subpart 3851 of this title.

[42 FR 5300, Jan. 27, 1977, as amended at 44 FR 9722, Feb. 14, 1979; 47 FR 56304, Dec. 15, 1982; 53 FR 48881, Dec. 2, 1988; 58 FR 38197, July 15, 1993; 59 FR 44857, Aug. 30, 1994; 64 FR 47021, Aug. 27, 1999; 67 FR 38206, June 3, 2002]

§ 3833.0-5 Definitions.

As used in this subpart:

(a) *FLPMA* means the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701) *et seq.*

(b) *Unpatented mining claim* means a lode mining claim or a placer mining claim located and held under the General Mining Law of 1872, as amended (30 U.S.C. 21-54), for which a patent under 30 U.S.C. 29 and 43 CFR part 3860 has not been issued.

(c) *Mill site* means any land located under 30 U.S.C. 42 for which patent under 30 U.S.C. 42 and 43 CFR part 3860 has not been issued.

(d) *Tunnel site* means a tunnel located pursuant to 30 U.S.C. 27.

(e) *Owner or claimant* means the person who is, under State or Federal law, the holder of the right to sell or transfer all or any part of an unpatented mining claim, mill site, or tunnel site. The name of the owner and his or her current address shall be identified on all instruments required to be recorded or filed by the regulations in this subpart.

(f) *Federal lands* means any lands or interest in lands owned by the United States, except lands within units of the National Park System, which are subject to location under the General Mining Law of 1872, *supra*, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System.

(g) *Proper BLM office* means the Bureau of Land Management State Office listed in § 1821.2-1(d) of this title having

jurisdiction over the land in which the claims or sites are located. In Alaska, the Northern District Office's Records and Public Information Unit, located in Fairbanks, may also receive and record documents, filings, and fees for all mining claims, mill sites, and tunnel sites located in the State of Alaska.

(h) *Date of location* or *located* means the date determined by State law in the local jurisdiction in which the unpatented mining claim, mill or tunnel site is situated.

(i) *Copy of the official record* means a legible reproduction or duplicate, except microfilm, of the instrument which was or will be filed under state law in the local jurisdiction where the claim or site is located. It also includes and exact reproduction, duplicate, except microfilm, of an amended instrument which may change or alter the description of the claim or site.

(j) *Affidavit of assessment work* means the instrument required under state law that certifies that assessment work required by 30 U.S.C. 28 has been performed on, or for the benefit of, a mining claim or, if state law does not require the filing of such an instrument, an affidavit evidencing the performance of such assessment work; and

(k) *Notice of intention to hold a mining claim* means an instrument containing the information required in §3833.2-5 of this title which has been or will be filed under state law in the local jurisdiction indicating that the owner continues to have an interest in the claim.

(l) *Notice of intention to hold a mill or tunnel site* means an instrument containing the information in the form required in §3833.2-5 of this title indicating that the owner continues to hold an interest in the site.

(m) *File* or *filed* means being received and date stamped by the proper BLM office. For purposes of complying with §§3833.1-2, 3833.1-3, 3833.1-5, 3833.1-6, 3833.1-7, or 3833.2, a filing or fee required by any of these sections is timely if received within the time period prescribed by law, or, if mailed to the proper BLM office, is contained within an envelope clearly postmarked by a bona fide mail delivery service within the period prescribed by law and received by the proper BLM State Office by 15 calendar days subsequent to such

period, except as provided in §1821.2-2(e) of this title if the last day falls on a day the office is closed.

(n) *Assessment year* is defined in 30 U.S.C. 28 and commences at 12 o'clock noon on September 1st of each year. For the purpose of complying with the requirements of section 314(a) of the Act, the calendar year in which the assessment year ends is the year for which the evidence of annual assessment work shall be filed.

(o) *Filing period* means the time period during which documents and fees are required to be provided to the proper BLM office. Except for filings and recordings required of a small miner qualifying for a waiver under §3833.1-7 of this title, filings under FLPMA that would have been due on December 30, 1994, and each December 30 through and including December 30, 2004, are waived effective January 1, 1994, and so long thereafter as the Act of November 5, 2001, is in effect.

(p) *Amended location* means a location that is in furtherance of an earlier valid location and that may or may not take in different or additional unappropriated ground. An amendment may:

(1) Correct or clarify defects or omissions in the original notice or certificate of location; or

(2) Change the legal description, mining claim name, position of discovery or boundary monuments, or similar items.

An amended location notice relates back to the original location notice date. No amendment is possible if the original location is void. An amendment to a notice or certificate of location shall not be used to effect a transfer of ownership of interest or to add owners. Such transfers or additions shall only be filed with the proper State Office of the BLM pursuant to §3833.3.

(q) *Relocation* means the establishment of a new mining claim, mill site, or tunnel site. A relocation may not be established by the use of an *amended location notice*, but requires a new original location notice or certificate as prescribed by state law.

(r) *Annual filing* means either an affidavit of assessment work or a notice of intention to hold the mining claim, mill site, or tunnel site.

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(s) *Authorized officer* means any employee of the Bureau of Land Management to whom authority has been delegated to perform the duties described in this subpart.

(t) *Small miner* means a claimant/owner of a mining claim(s), that meets the requirements of §§3833.1-6 and 3833.1-7.

(u) *Age of discretion* means that age at which, pursuant to State law, an individual is legally entitled to manage his or her own affairs, and to enjoy civic rights.

(v) *Maintenance fee* means the annual \$100 payment required by 30 U.S.C. 28f, as amended by the Act of November 5, 2001 (115 Stat. 414), to hold and maintain a mining claim, mill site, or tunnel site. The requirement to pay a maintenance fee does not apply to any claim located after September 29, 2003.

(w) *Location fee* means the one time \$25 payment required by 30 U.S.C. 28g, as amended by the Act of November 5, 2001, for all new mining claims and mill and tunnel sites located upon the public lands on or after August 11, 1993, and before September 30, 2003. The location fee shall be paid at the time the mining claim or site is recorded with the proper BLM office.

(x) *Related party* means:

(1) The spouse and dependent children of the claimant as defined in section 152 of the Internal Revenue Code of 1986, or

(2) A person who controls, is controlled by, or is under common control with the claimant.

(y) *Control* means, as defined in 30 U.S.C. 28g, as amended by the Act of November 5, 2001, actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

(z) *Forfeiture* means the consequences of an act or failure to act that results in an unpatented mining claim, mill, or tunnel site being deemed to be by operation of law abandoned or null and void. The term has the same meaning whether it is used in the noun form or in the verb form "forfeit" or "forfeited."

(aa) *Returnable* means that a check or negotiable instrument, including a

valid credit card order, is received by the authorized officer but not yet processed through the accounting system of the Bureau of Land Management, and can be returned to the originator without processing of a refund check through the United States Treasury pursuant to §3833.1-1.

(bb) *Refundable* means that a check or negotiable instrument, including a valid credit card order, has been processed through the accounting system of the Bureau of Land Management, and cannot be returned to the originator without the processing of a refund check through the United States Treasury or the crediting to a credit card account pursuant to §3833.1-1.

[42 FR 5300, Jan. 27, 1977, as amended at 44 FR 9722, Feb. 14, 1979; 47 FR 56304, Dec. 15, 1982; 48 FR 7179, Feb. 18, 1983; 53 FR 48881, Dec. 2, 1988; 55 FR 17754, Apr. 27, 1990; 58 FR 38197, July 15, 1993; 59 FR 44858, Aug. 30, 1994; 64 FR 47021, Aug. 27, 1999; 67 FR 38206, June 3, 2002]

§ 3833.0-9 Information collection.

(a) The collections of information contained in subpart 3833 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004-0114. The information will be used to enable BLM to record mining claims, mill sites, and tunnel sites; to maintain ownership records to those claims and sites; to determine the geographic location of the claims and sites recorded for proper land management purposes; and to determine which claims and sites their owner(s) wish to continue to hold under applicable Federal statute. A response is required to obtain a benefit in accordance with Section 314 of FLPMA, as amended, 43 U.S.C. 299, and 30 U.S.C. 28f-k, as amended by the Act of November 5, 2001 (115 Stat. 414).

(b) Public reporting burden for this information is estimated to average 8 minutes per response, including time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions for reducing the